COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: May 20, 2009

OFFICE CORRESPONDENCE FILE NO. FO2182903

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
LIEUTENANT JAMES TATREAU #[redacted]
DEPUTY GILBERT RAMIREZ #[redacted]
DEPUTY MICHAEL BARLOW #[redacted]
DEPUTY [redacted] #[redacted]
DEPUTY EDWARD GILPIN #[redacted]
DEPUTY DAVID HARRISON #[redacted]
DEPUTY JAMES HERRERA #[redacted]
DEPUTY DANIEL MAILLOUX #[redacted]
LAKEWOOD STATION

On October 29, 2006, at approximately 1730 hours, Deputies Michael Barlow and Gilbert Ramirez, along with five assisting deputies, were involved in a physical altercation with the suspect, which resulted in his death. Deputy Ramirez and Deputy Barlow sustained moderate injuries.

Deputies Ramirez and Barlow were working a crime car in the area of Flangel Street and Paramount Boulevard because of the high burglary and crime rate. They saw a man, Suspect Devin Eichenlaub, walking on the grass median. Because of the numerous vehicle and residential burglaries in the area, the deputies became suspicious that Eichenlaub might be casing the area and decided to contact him.

Deputies Ramirez and Barlow exited their marked patrol car and walked up to Suspect Eichenlaub. Deputy Ramirez asked Eichenlaub to talk with him. Eichenlaub suddenly moved his hands to his waistband area. Deputy Ramirez noticed Eichenlaub was holding a black object in his hand which he believed was a gun. The object was later determined to be a cell phone. Suspect Eichenlaub then put his head down and ran directly at Deputy Ramirez, but then looked up with an expression of surprise, and changed direction toward Deputy Barlow. Deputy Barlow grabbed hold of Suspect Eichenlaub and they both fell to the ground, where Eichenlaub concealed both of his hands underneath his stomach and kicked at the deputies.

Deputy Ramirez used his radio to call for assistance, and both deputies struggled to control and disarm Suspect Eichenlaub as he thrashed his body on the ground and kicked at them. During the struggle to gain control, deputies punched Suspect Eichenlaub and sprayed him with O.C. Spray. They also used their body weight to hold him down and kneed him about his upper body. Deputy Barlow struck Eichenlaub on the upper torso and legs with his ASP baton to control Eichenlaub's movements. Both deputies were unable to gain control of Suspect Eichenlaub because of his violent struggle. At one point, the deputies instructed a passerby to get the Hobble Restraint device from the trunk of their radio car, which he did, but the deputies were unable to apply the Hobble Restraint device because of Eichenlaub's violent struggle.

The Watch Commander and assisting units arrived approximately five minutes after the fight started and primarily used body weight to hold Suspect Eichenlaub down while the Hobble Restraint device was applied. Suspect Eichenlaub continued to kick and struggle and he scraped his face into the asphalt street, causing numerous abrasions to his own face. The Deputies restrained him further by applying the TARP and placing him on his side while Suspect Eichenlaub continued to use his strength to flail his body about, yell obscenities at them and yell for help. Paramedics were summoned and tried to treat Suspect Eichenlaub for his injuries and Suspect Eichenlaub yelled and spat at them too. Within a few minutes of the paramedics' contact with Suspect Eichenlaub, he stopped struggling and yelling. Paramedics immediately noticed he appeared to be in medical distress and the deputies removed the TARP and handcuffs . It was found that Eichenlaub had stopped breathing. CPR was initiated by the deputies and paramedics, and Eichenlaub was transported to St. Francis Medical Center where he later died. The emergency room doctors found cocaine in Eichenlaub's system, and later during the autopsy, the presence of cocaine was found in Suspect Eichenlaub's system by the coroner.

An autopsy was performed on Suspect Eichenlaub, and the cause of death was listed as: "Sequelae of Hypoxic / Ischemic Encephalopathy, due to or as a consequence of, Status Post Cardiopulmonary Arrest with Multiorgan Failure, Cocaine Intoxication, Restraint Maneuvers, and Other Unknown Factors."

The Los Angeles County District Attorney's Office, Justice System Integrity Division closed their case, concluding there was insufficient evidence to prove that the deputies acted unlawfully. The District Attorney's letter of opinion was dated June 26, 2007 regarding their facts and findings.

On May 14, 2009, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Lieutenant James Tatreau #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Gilbert Ramirez #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Michael Barlow #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy [redacted] #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Edward Gilpin #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy David Harrison #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy James Herrera #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Daniel Mailloux #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Eric B. Smith, Commander

EBS:YLW/ylw

Table of Contents

IAB # 2182903





LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

June 26, 2007

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, CA. 90040

Re: J.S.I.D. File No: 06-0689
L.A.S.D. File No: 006-28263-1323-058

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 30, 2006, in-custody death of Devin Eichenlaub. We conclude that Los Angeles County Sheriff's Deputies Gilbert Ramirez and Michael Barlow acted lawfully during the events preceding Eichenlaub's death.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau and submitted to this office on April 30, 2007, by Sergeant Joe Purcell. The District Attorney's Command Center was notified of the death on November 1, 2006, at 3:00 p.m. The District Attorney's Response Team, consisting of Senior Investigators [redacted] and [redacted] responded and were given a briefing by Sergeant Purcell. District Attorney personnel also participated in canvassing the neighborhood where the incident occurred to look for and interview witnesses. No compelled statements were reviewed or considered as part of this analysis.

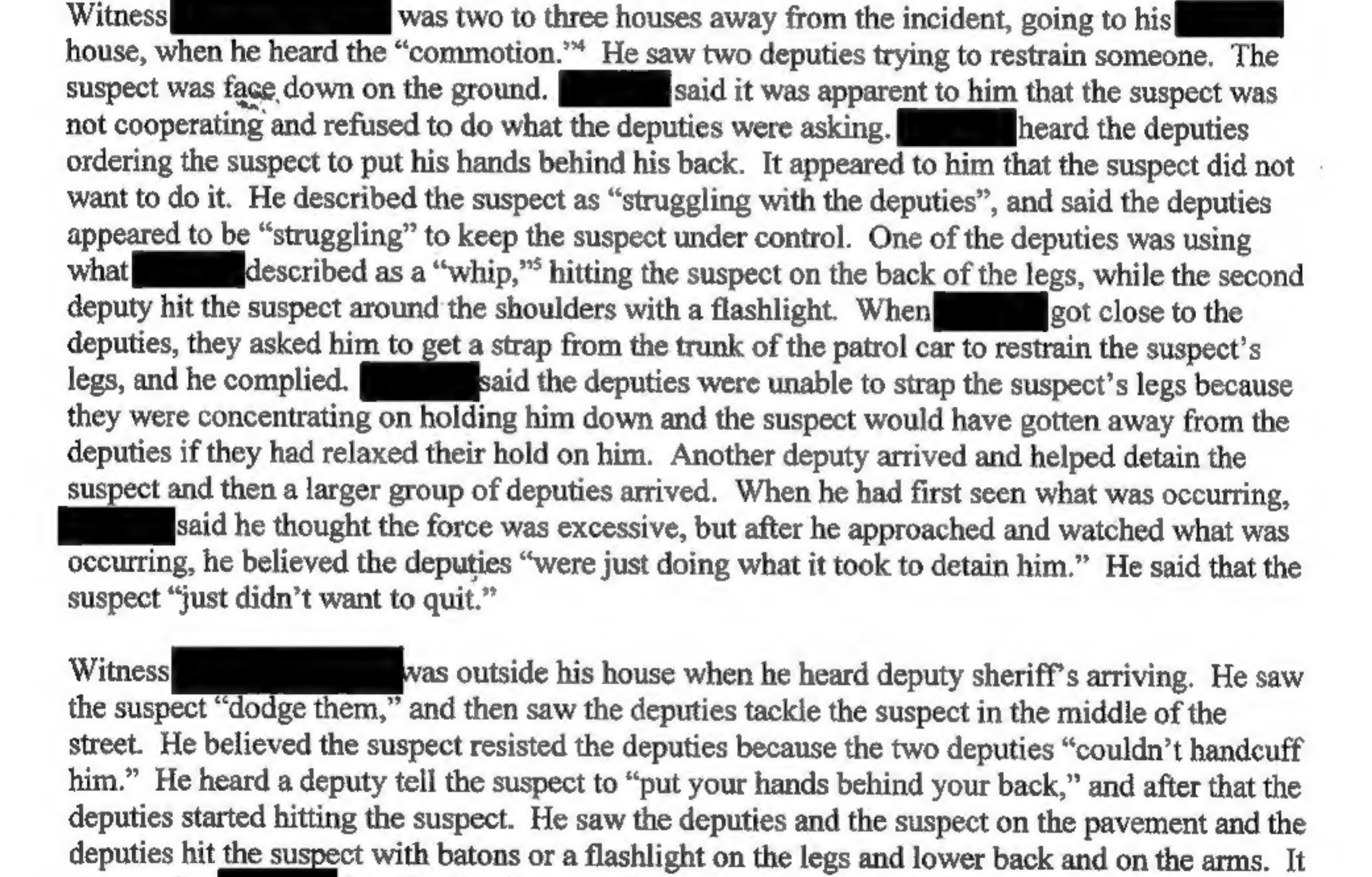
FACTUAL ANALYSIS

On October 29, 2006 at approximately 5:30 p.m., LASD Deputies Gilbert Ramirez and Michael Barlow were working the "crime car"[1] in the area of Flangel Avenue and Paramount Boulevard in Lakewood. They observed a person, later identified as Devin Eichenlaub, walking southbound on the grass median between Paramount Boulevard and the frontage road[2]. Due to

[1] A unit devoted to special problems rather than to patrol.
[2] Statements of Deputies Ramirez and Barlow were contained in Deputy [redacted] Incident Report.

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numerous vehicle and residential burglaries in the area, Deputy Ramirez became suspicious that Eichenlaub might be scouting the area for a potential target and decided to contact him. Ramirez and Barlow got out of their patrol car and Barlow asked Eichenlaub if he would talk to him. Eichenlaub, who was holding a black object in his hand, reached toward his waist area and at the same time bent over at the waist. He then ran towards Ramirez; when he looked up and saw Ramirez, he quickly changed directions and ran in Barlow's direction. Barlow believed the black object Eichenlaub was attempting to conceal was a gun,[3] and he grabbed Eichenlaub. Ramirez and Barlow both struggled with Eichenlaub; at some point he was taken to the ground, where he lay with both hands under his body. While he was on the ground, Eichenlaub kicked Ramirez in the chest. Ramirez used his Sheriff's radio to call for assistance. He and Barlow struggled to restrain Eichenlaub, who continued to fight.



Witness [redacted] was two to three houses away from the incident, going to his [redacted] house, when he heard the "commotion."[4] He saw two deputies trying to restrain someone. The suspect was face down on the ground. [redacted] said it was apparent to him that the suspect was not cooperating and refused to do what the deputies were asking. [redacted] heard the deputies ordering the suspect to put his hands behind his back. It appeared to him that the suspect did not want to do it. He described the suspect as "struggling with the deputies", and said the deputies appeared to be "struggling" to keep the suspect under control. One of the deputies was using what [redacted] described as a "whip,"[5] hitting the suspect on the back of the legs, while the second deputy hit the suspect around the shoulders with a flashlight. When [redacted] got close to the deputies, they asked him to get a strap from the trunk of the patrol car to restrain the suspect's legs, and he complied. [redacted] said the deputies were unable to strap the suspect's legs because they were concentrating on holding him down and the suspect would have gotten away from the deputies if they had relaxed their hold on him. Another deputy arrived and helped detain the suspect and then a larger group of deputies arrived. When he had first seen what was occurring, [redacted] said he thought the force was excessive, but after he approached and watched what was occurring, he believed the deputies "were just doing what it took to detain him." He said that the suspect "just didn't want to quit."

Witness [redacted] was outside his house when he heard deputy sheriff's arriving. He saw the suspect "dodge them," and then saw the deputies tackle the suspect in the middle of the street. He believed the suspect resisted the deputies because the two deputies "couldn't handcuff him." He heard a deputy tell the suspect to "put your hands behind your back," and after that the deputies started hitting the suspect. He saw the deputies and the suspect on the pavement and the deputies hit the suspect with batons or a flashlight on the legs and lower back and on the arms. It appeared to [redacted] that the deputies were having a hard time with the suspect, and that the suspect was resisting arrest. The suspect was saying "help me." Initially there were only two

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[3] When it was finally removed from Eichenlaub's grasp, the black object was discovered to be a cell phone.

[4] A large group of neighborhood residents subsequently gathered around the scene; many were interviewed on video on the night of the incident by LASD Sergeant Josie Woolum. In the days following the incident, the neighborhood was canvassed for witnesses by LASD Sergeants Joe Purcell and Suzan Young and Senior District Attorney Investigators [redacted] and [redacted] More than 25 civilian witnesses were interviewed. Of these, [redacted] and [redacted] were closest to the location and observed the incident from its inception.

[5] This may have been a part of a hobble restraint which was later found under Eichenlaub's thighs.

deputies with the suspect, and then many other deputies arrived. According to [redacted] there ultimately were eight deputies who were holding the suspect down with their hands while the suspect was pushing them off. He concluded that the suspect was on drugs because he was strong enough to push off "all those guys."

[redacted] was outside [redacted] home when he heard the sounds of a man running. He heard a deputy sheriff say "stop, stop, don't resist," and then saw the suspect run. He saw the suspect running from the deputies, trying to "outmaneuver" them, then the deputies "took him down." He saw the suspect on the ground with two deputies over him. He said "he must have been resisting arrest," because the suspect would not put his hands behind his back. He saw the deputies hitting the suspect with fists and also saw a deputy strike the suspect with a flashlight. The deputies were saying "stop resisting arrest" during the entire time. [redacted] believed the suspect was on drugs because he "was getting hit a lot" and was not giving up.

[redacted] was standing in front of [redacted] home when he saw a Sheriff's vehicle make a quick U-turn. He saw a deputy get out of the car. He also saw a man running; the man "ducked and dodged" the deputy, and was caught and forced to the pavement. There were two deputies present; one was on the man's back and the other was on his backside. The suspect was face down. The deputies struck the man with nightsticks or flashlights on the leg and chest or shoulder. The deputies repeatedly asked the suspect to put his hands behind his back; he was kicking and would not cooperate. They struggled with the suspect for three or four minutes before anyone else arrived. A citizen then helped get something out of the trunk of the Sheriff's car and gave it to the deputies. Additional Sheriff's cars arrived. He heard one of the deputies say that the suspect had a gun. [redacted] then stepped back for his own safety. [redacted] eventually saw eight deputy sheriffs on the suspect and the suspect continued to struggle. [redacted] concluded that no one in their "right mind would do that"; it appeared to him that the suspect was on drugs.

Assisting deputies responded approximately five minutes after the call was broadcast.[6] Lieutenant James Tatreau was the first responding unit to arrive. He saw a black and white Sheriff's patrol car parked at the curb with the headlights on, both front doors wide open and the trunk wide open. Deputies Barlow and Ramirez were on top of Eichenlaub in the middle of the service road. Both deputies looked up at Tatreau with what he described as "a look of relief." Eichenlaub's arms and hands were tucked under his body and he was yelling "fuck you, fuck you" and "help!" Barlow asked Tatreau to hobble Eichenlaub's legs, as he was kicking the deputies. Tatreau found the hobble under Eichenlaub's upper legs on the ground, but due to Eichenlaub's "extreme strength" he was unable to execute the hobble; instead, Tatreau put his knees on one ankle and both of his hands on Eichenlaub's other ankle and used his entire body weight to pin him to the ground until additional deputies arrived.

Deputies Harrison and Gilpin arrived and assisted in the effort to restrain Eichenlaub, who continued to fight with the deputies. Eichenlaub struggled to pull his hands away from the deputies, ignoring their shouts to "stop fighting." Harrison attempted to pull Eichenlaub's right hand out from under his body; he ultimately had to use his baton to pry Eichenlaub's arm away

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[6] In the heat of the struggle, Ramirez broadcast that he was at the wrong location; he was located by a Sheriff's airship some minutes after his initial call for help.

from his body. Gilpin put one knee on Eichenlaub's right thigh and his hands on Eichenlaub's left leg; other deputies were then able to apply the hobble and to handcuff Eichenlaub.

Tatreau ordered deputies to put Eichenlaub on his side, but he fought with the deputies and was placed onto his chest.[7] Tatreau saw Eichenlaub intentionally rub his face against the asphalt roadway. He tried to calm Eichenlaub and told him to stop fighting. Tatreau ordered deputies to put Eichenlaub on his side, and to keep him there no matter how hard he fought.

Paramedics were called to the scene and they examined Eichenlaub for injuries. Eichenlaub did sustain abrasions to his face from rubbing his face on the ground. While attempting to examine Eichenlaub and treat his injuries, paramedics noticed that he was not breathing and his heart had stopped.[8] Deputy Harrison began chest compressions while the fire department began rescue breathing on Eichenlaub. They succeeded in resuscitating him and transported him to Lakewood Regional Hospital in critical condition.[9] Eichenlaub died on October 30, 2006, at 7:40 p.m. He was 39 years old.

Sergeant Purcell spoke with Eichenlaub's [redacted] at the hospital shortly before Eichenlaub's death. [redacted] said that his [redacted] had been a cocaine addict "since high school" or shortly thereafter, and had been [redacted] It was his belief that his [redacted] was "definitely not clean." He said that his [redacted] had been renting a room on Plenty Street in Long Beach.

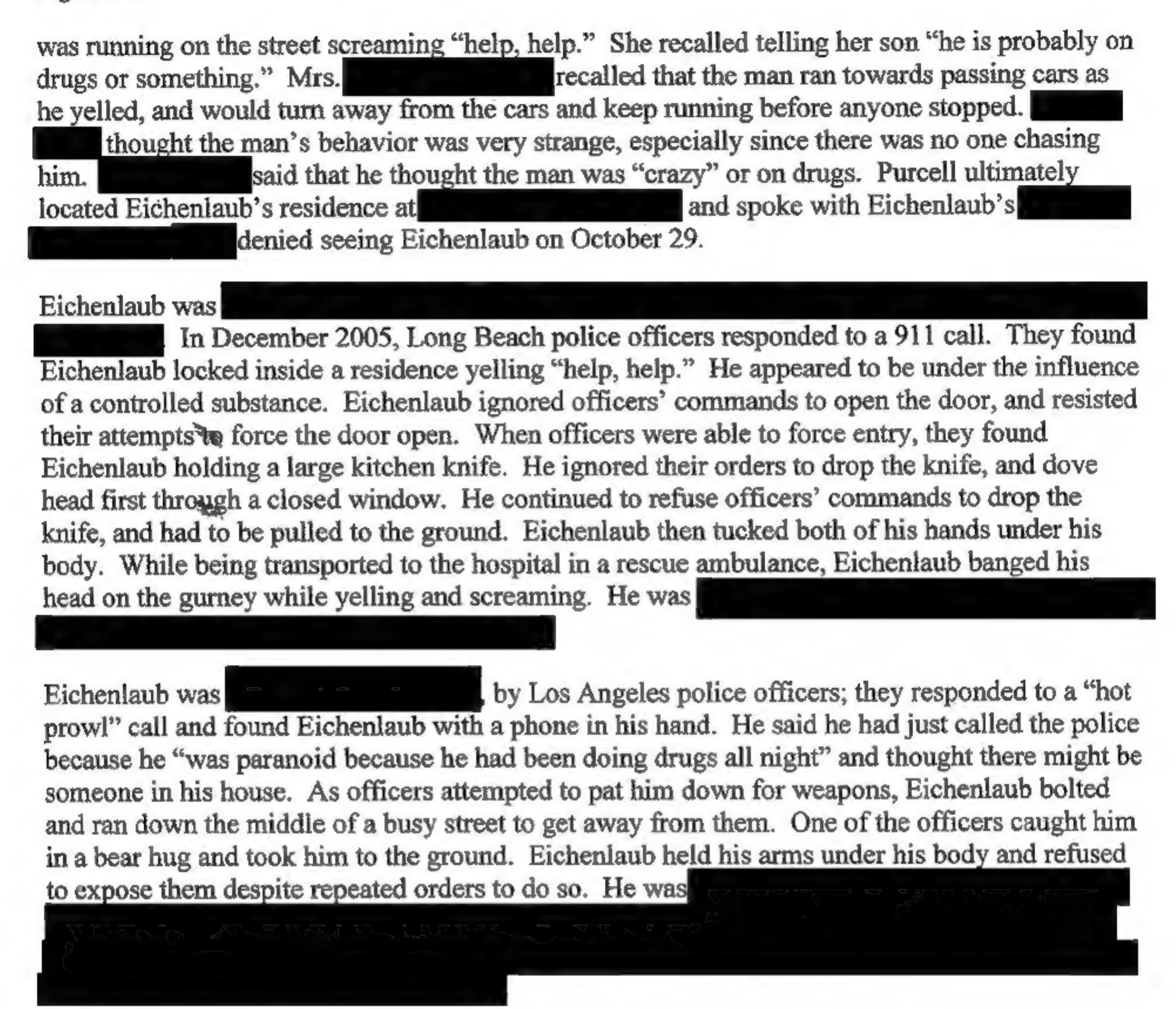
On October 31, 2006, Sgt. Purcell went to Plenty Street in Long Beach in an effort to locate Eichenlaub's residence. While canvassing Plenty Street, he found several people who had seen Eichenlaub behaving erratically on October 29. [redacted] and her [redacted] were driving to Von's supermarket at 2:00 p.m. on that date when they saw a man, who they identified from a photograph as Eichenlaub, running south on Locust Avenue towards Del Amo Boulevard. He

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[7] At Tatreau's direction the incident was videotaped by Sergeant Walden, who arrived during the effort to restrain Eichenlaub. In the video, Eichenlaub is on the ground surrounded by deputies, who are holding him with their hands. A deputy says "we are going to turn you on your side". He is turned on his right side. A deputy tells him "if you keep fighting we're going to have to put you back down". Eichenlaub continually says "help, help, help, help" in a droning voice, and appears to be bucking or kicking. He is turned over onto his stomach as deputies tell him to "stop moving". He is rubbing his face on the ground, and a deputy tells him to stop. Deputies ask him his name and he says "Devin Eichenlaub". They ask him his age and he does not respond to their question, but starts saying "help, help, help, help" again. A deputy says "relax, the paramedics are here". The paramedics arrive and begin to assess Eichenlaub's condition. He is turned on his back. A paramedic asks him if he has taken any drugs and he says "no." Eichenlaub is asked if he has any medical problems and he says "yes." The paramedic asks what problems, and Eichenlaub says "no, no, no, no, no." The paramedic suspects he is under the influence of alcohol ("ETOH"), and says that Eichenlaub is combative and refuses to answer questions. He observes a cut over Eichenlaub's eye. The paramedics put a cervical collar on Eichenlaub and tell him they are going to put some water on his face; they then wash his face. He is unresponsive. The paramedics ask the deputies if he is still cuffed and the deputies say that he is because he is combative and he is "tarped" (his legs are restrained with a hobble) as well; they agree to remove the "chain" from the hobble restraint. At this point, a deputy observes that Eichenlaub has stopped breathing and CPR is commenced. The handcuffs are removed. Eichenlaub is placed in an ambulance and the ambulance pulls away.

[8] At the paramedics' request, Eichenlaub's handcuffs were removed at this time.

[9] According to Coroner Irwin Golden, a blood sample taken from Eichenlaub at the hospital where he received medical treatment was discarded by the hospital and was not available for the coroner's analysis.



was running on the street screaming "help, help." She recalled telling her son "he is probably on drugs or something." Mrs. [redacted] recalled that the man ran towards passing cars as he yelled, and would turn away from the cars and keep running before anyone stopped. [redacted] thought the man's behavior was very strange, especially since there was no one chasing him. [redacted] said that he thought the man was "crazy" or on drugs. Purcell ultimately located Eichenlaub's residence at [redacted] and spoke with Eichenlaub's [redacted] denied seeing Eichenlaub on October 29.

Eichenlaub was [redacted] In December 2005, Long Beach police officers responded to a 911 call. They found Eichenlaub locked inside a residence yelling "help, help." He appeared to be under the influence of a controlled substance. Eichenlaub ignored officers' commands to open the door, and resisted their attempts to force the door open. When officers were able to force entry, they found Eichenlaub holding a large kitchen knife. He ignored their orders to drop the knife, and dove head first through a closed window. He continued to refuse officers' commands to drop the knife, and had to be pulled to the ground. Eichenlaub then tucked both of his hands under his body. While being transported to the hospital in a rescue ambulance, Eichenlaub banged his head on the gurney while yelling and screaming. He was [redacted]

Eichenlaub was [redacted], by Los Angeles police officers; they responded to a "hot prowl" call and found Eichenlaub with a phone in his hand. He said he had just called the police because he "was paranoid because he had been doing drugs all night" and thought there might be someone in his house. As officers attempted to pat him down for weapons, Eichenlaub bolted and ran down the middle of a busy street to get away from them. One of the officers caught him in a bear hug and took him to the ground. Eichenlaub held his arms under his body and refused to expose them despite repeated orders to do so. He was [redacted]

On November 4, 2006, Los Angeles County Deputy Medical Examiner Irwin Golden, M.D. performed an autopsy on the body of Devin Eichenlaub. Eichenlaub had bruises and abrasions on his body. The toxicology study disclosed cocaine in Eichenlaub's blood. Dr. Golden concluded that there was no single clear cause of death, stating: "This is a case of an individual who underwent cardiopulmonary arrest shortly after a violent struggle with physical law enforcement restraint. There was no single clear structural cause of death identifiable at autopsy, that is no physical injury or natural disease." Dr. Golden did identify many factors that contributed to Eichenlaub's death: "This death appears to have many contributing factors that combine to result in Mr. Eichenlaub's demise. The death appears to be multifactorial in etiology and attributable to a combination of factors including cocaine toxicity, violent physical activity because of an intense struggle, the physiologic affects of stress, restraint maneuvers, and cardiac hypertrophy." As a result the manner of death was classified as undetermined.

CONCLUSION

Penal Code section 835a states: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or overcome resistance."

Where after all reasonable means have failed to induce a person to peaceable arrest and where that person has manifested a belligerent attitude, the arresting officers, as reasonable men, in the circumstances of the situation, are justified in using as much force as appears reasonably necessary to enable them in safety to themselves to compel submission to the law's process. People v. Brite (1937) 9 Cal. 2d 666.

The evidence examined in the investigation shows the deputies did not act recklessly or in a grossly negligent manner in restraining Devin Eichenlaub. On the contrary, the officers' use of force was in direct response to Eichenlaub's aggressive and irrational behavior. The deputies' use of force was limited to several blows and the use of bodyweight. Eichenlaub had concealed his hands under his body and the deputies suspected he might have a gun. He refused all of their commands to stop resisting, and fought with and kicked at the deputies who attempted to handcuff him.

Eichenlaub had a [redacted] In the present case, Eichenlaub's behavior caused the deputies to reasonably fear that he was armed.

Therefore, we find that there is insufficient evidence to prove that the deputies acted unlawfully. We are closing our file and will take no further action.

Very truly yours,

STEVE COOLEY
District Attorney

By [signature]

SUSAN SCHWARTZ
Deputy District Attorney
(213)974-5089

c: Deputy Gilbert Ramirez, #[redacted]
Deputy Michael Barlow, #[redacted]